In the High Court of Judicature at Madras

Dated:13.06.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice V. DHANAPALAN

Habeas Corpus Petition No.139 of 2006

Mrs. Muniammal .. Petitioner

vs.

1. The Commissioner of Police
   Greater Chennai
   Egmore, Chennai 600 008.

2. The Secretary to the
   Government of Tamil Nadu
   Prohibition & Excise Department
   Fort St. George
   Chennai 600 009. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus calling for the records of the 1st respondent in connection with the order of the 1st respondent dated 10.11.2005 in No.512/BDFGISV/2005 detaining D.Ravi, S/o.K.R.Duraisamy aged about 26 years as a Goonda under Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the body of the said detenu Ravi, S/o.Duraisamy now lodged in the Central Prison, Chennai before this Hon'ble Court and set him at liberty.

For petitioner : Mr. P. Prince Premkumar

For respondents : Mr. M. Babu Muthu Meeran
Addl. Public Prosecutor

ORDER

(Order of the Court was made by P. SATHASIVAM,J.,)

The petitioner by name Muniammal, challenges the impugned

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

order of detention dated 10.11.2005, detaining her son, D. Ravi, as "Goonda" under Section 3 (1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982 (in short "Tamil Nadu Act 14 of 1982").

2. Heard both sides.

3. After taking us through the impugned order of detention and all other relevant materials, learned counsel for the petitioner raised the following contentions:

> (i) The detaining authority failed to take note of other crime numbers referred to by the Sponsoring authority as well as the learned Judicial Magistrate while passing the order of remand; hence, the detention order is liable to be quashed on the ground of non-application of mind on the part of the detaining authority;
>
> (ii) Though in the representation, the detenu and his mother sought for copies of certain documents, the same have not been duly furnished by the Government; and
>
> (iii) In the subsequent representation the mother of the detenu has sought for clean copies of certain documents and the same were supplied after the enquiry by the Advisory Board was over; hence, the detenu and his mother were prevented from making an effective representation.

4. Learned Additional Public Prosecutor by placing relevant records met all the above said contentions raised by the learned counsel for the petitioner.

5. Coming to the first contention, viz., non-application of mind on the part of the detaining authority by not referring other crime numbers except Crime No.892 of 2005, we verified the relevant paragraph, viz., para 4 of the grounds of detention. It is true that the detaining authority has taken note of the fact that the detenu was in remand in Crime No.892 of 2005 of S.15 Selaiyur Police Station. He also referred to the bail application Crl.M.P.No.10220 of 2005 moved before the Judicial Magistrate, Tambaram. The learned counsel for the petitioner has brought to our notice the remand requisition made by the Sponsoring authority and the order passed by the Judicial Magistrate, Tambaram dated 14.10.2005. It is true that in the requisition, the Inspector of Police, Seliayur has not only mentioned the Crime No.892 of 2005 relating to the ground case, but also

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

referred to other four Crime Numbers, viz., Cr.Nos.874 of 2005, 879 of 2005, 883 of 2005 and 890 of 2005. Likewise, the order of the Judicial Magistrate, Tambaram dated 14.10.2005 refers all the above mentioned crime numbers. It is also brought to our notice that even in the special report dated 05.11.2005 the Inspector of Police has referred to all the above five crime numbers. It is the claim of the learned counsel for the petitioner that in such circumstances it is but proper on the part of the detaining authority to refer all the five crime numbers mentioned in the documents stated earlier. According to him, in the absence of the same, it is presumed that the detaining authority has not applied his mind and verified the fact regarding those crime numbers and hence, the detention order passed by him cannot be sustained.

6. In support of the above contention, he relied on a Division Bench decision of this Court dated 27.03.2006 in HCP.No.1296 and 1298 of 2005 (Muniammal and another vs. Secretary to Government, Prohibition and Excise XII Department, Chennai 600 009 and another). We verified the factual details in the said decision. It is useful to mention that the detenu in the case on hand had 24 adverse cases to his credit. It is not in dispute that in all the 24 cases, the offence involved is one under Section 379 IPC. On the other hand, the ground case in Crime No.892 of 2005 relates to various offences under Sections 341, 427, 392 and 506(II) IPC. It is not in dispute that offence under Section 392 is graver in nature than all other offences, for which the maximum punishment is imprisonment for 10 years and fine. In such circumstances, we are of the view that though the detaining authority was in possession of all the details including the earlier crime numbers, after taking note of all those materials and considering the fact that Crime No.892 of 2005 relates to a graver offence, referred the same in paragraph-4 of the grounds of detention. In such circumstances, we are of the view that the decision relied on by the learned counsel for the petitioner is distinguishable on facts and not applicable to the case on hand.

7. On the other hand, learned Additional Public Prosecutor has brought to our notice the Division Bench decision of this Court dated 11.10.1995 made in HCP.No.744 of 1995 (Kaleeth vs. Commissioner of Police, Madras City, Egmore, Chennai 600 008 and another). In that case, in identical circumstances, the Division Bench rejected a similar contention raised before it. In this regard, it is also relevant to refer the following conclusion arrived at by the Division Bench:

> "4. The second submission was that, the petitioner was arrested in the last adverse case as well as in the ground crime on the same day and produced for remand on the same day in both crimes. While so, the detaining authority had arrived t his

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

> subjective satisfaction on compelling necessity, only in respect of the ground crime and not in respect of last adverse crime, and hence the subjective satisfaction arrived at must be held to be vitiated. We are unable to agree for, in the ground crime a more serious offence has been alleged, which is punishable with imprisonment for life, especially when hurt was caused to policemen in the course of the same transaction. An offence under Section 366 I.P.C. which is the subject matter of the last adverse crime is punishable with imprisonment to a maximum extent of ten years rigorous imprisonment. We cannot overlook that last adverse crime also stood registered for an offence punishable under Sec.307 IPC also. The subjective satisfaction arrived at relates to the graver crime punishable under Sec.307 IPC and, on that premise, we are unable to find fault with the subjective satisfaction arrived at, on compelling necessity. This ground is rejected. "

We are in respectful agreement with the view expressed by the Division Bench and we hold that the detaining authority has not committed any error and the order cannot be faulted with on the ground that he has not specifically referred other crime numbers in the order of detention; accordingly, we reject the first contention.

8. Coming to the second contention, learned counsel for the petitioner vehemently submitted that in spite of the specific request made to both the authorities the petitioner was not furnished with a copy of the order passed by the Principal District Judge, Chengalpet. We verified the document supplied to the detenu. It is not in dispute that the petitioner was supplied with the copy of bail petition and orders passed thereon by the Judicial Magistrate, Tambaram. It is also seen that the petitioner was supplied with the copy of bail application in Crl.M.P.No.13951 of 2005 filed before the District Judge, Chengalpet. As said earlier, it is the grievance of the petitioner that the order passed by the District Court, Chengalpet has not been furnished to the petitioner. It is also the grievance of the petitioner that in spite of specific request, the Government, instead of complying with her request, sent a reply stating that the order passed by the Judicial Magistrate, Tambaram had already been furnished. We verified the documents supplied to the detenu as well as reply sent by the Government. It is true that the copy of the order passed by Principal District Court, Chengalpet has not been supplied. On the other hand, it is not in dispute that bail petition and order passed by Judicial Magistrate, Tambaram have been supplied. In the absence of prejudice caused due to non-supply of the order passed by the Principal District Judge, Chengalpet, we are of the view

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

that the detention order cannot be interfered with. On the other hand, it is not in dispute that the detenu and her mother made representations and the same were duly considered and rejected. Accordingly, we are unable to accept the second contention also.

9. Coming to the third contention, we verified the representation of the mother of the detenu, seeking clean copies of certain pages in the paper book supplied to the detenu and clean copies of those documents were also supplied to the detenu. It is the grievance of the petitioner that those were supplied after the enquiry by the Advisory Board. In this regard, we verified the representation made by mother of the detenu as well as the details regarding the documents sought for by her and the reply sent by the Government. Even according to the Government, though the copies were legible and readable, the detaining authority was directed to supply clean copies. In such circumstances, we are of the view that the petitioner is in no way prejudiced by the supply of clean copies after the enquiry by the Advisory Board. Accordingly, we reject the said contention also.

In the light of what is stated above, we do not find any error or infirmity for interference. Accordingly, this petition fails and the same is dismissed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

Kh

To

1. The Commissioner of Police
   Greater Chennai
   Egmore, Chennai 600 008.

2. The Secretary to the
   Government of Tamil Nadu
   Prohibition & Excise Department
   Fort St. George
   Chennai 600 009.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

3.The Superintendent,
Central Prison, Chennai.

4.The Joint Secretary to Government,
Public (Law & Order)
Fort Saint George, Chennai-9.

5.The Public Prosecutor,
High Court, Madras -104.

+1cc to Mr.R.Thanjan, Advocate Sr 24504

MAB (CO)
km/19.6.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/